

### **§ 952.13**

scope of the proceedings initiated by the complaint are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to conform the pleadings to the evidence and to raise such issues may be allowed at any time upon the motion of any party.

(d) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues raised by the pleadings, but fails to satisfy the presiding officer that an amendment of the pleadings would prejudice him or her on the merits, the presiding officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(e) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have occurred since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

### **§ 952.13 Continuances and extensions.**

Continuances and extensions will not be granted by the presiding officer except for good cause shown.

### **§ 952.14 Hearings.**

Hearings are held at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, or other locations designated by the presiding officer. Time, date, and location for the hearing shall be set by the presiding officer in his or her sole discretion.

### **§ 952.15 Change of place of hearings.**

(a) A party may file a request that a hearing be held to receive evidence in his or her behalf at a place other than that designated in § 952.14. The party shall support the request with a statement outlining:

- (1) The evidence to be offered in such place;
- (2) The names and addresses of the witnesses who will testify; and,
- (3) The reasons why such evidence cannot be produced at Arlington, VA.

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(b) The presiding officer shall give consideration to the convenience and necessity of the parties and witnesses and the relevance of the evidence to be offered.

### **§ 952.16 Appearances.**

(a) Respondent may appear and be heard in person or by attorney. A Notice of Appearance must be filed by any attorney representing Respondent.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer. See 39 CFR Part 951.

(c) When Respondent is represented by an attorney, all pleadings and other papers subsequent to the complaint shall be mailed to the attorney.

(d) Withdrawal by any attorney representing a party must be preceded by a motion to withdraw stating the reasons therefore, and shall be granted in the discretion of the presiding officer. If a successor attorney is not appointed at the same time, withdrawing counsel shall provide adequate contact information for Respondent.

(e) Parties must promptly file a notice of change of attorney.

### **§ 952.17 Presiding officers.**

(a) The presiding officer at any hearing shall be an Administrative Law Judge qualified in accordance with law or the Judicial Officer (39 U.S.C. 204). The Chief Administrative Law Judge shall assign cases. The Judicial Officer may, for good cause shown, preside at the hearing if an Administrative Law Judge is unavailable.

(b) The presiding officer shall have authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses;
- (3) Rule upon offers of proof, admissibility of evidence, and matters of procedure;
- (4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;
- (5) Maintain discipline and decorum and exclude from the hearing any person acting in an inappropriate manner;
- (6) Require the filing of briefs or memoranda of law on any matter upon which he or she is required to rule;